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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/838,968

04/20/2001

Michael B. Foster

RENAS/03

1662

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02/18/2004

EXAMINER

WOOD, HERRON & EVANS, LLP

2700 CAREW TOWER

441 VINE STREET

CINCINNATI, OH 45202

ART UNIT

PAPER NUMBER

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/838,968

Applicant(s)

FOSTER, MICHAEL B.

Examiner

Chih-Min Kam

Art Unit

1653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 21 November 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☒ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet

Continuation of 9. Other (including any explanation in support of the above items):

Continuation of (2): The brief does not identify the appealed claims correctly, which should be identified as follows: (I). Claims 2, 3, 11, 15 and 16 are rejected under 35 U.S.C. 112, second paragraph; (II). Claims 1, 7-10 and 13 are rejected under 35 U.S.C. 102(b) over Drake et al. (J. Clinical Endocrinology Metabolism 83, 3913-3919 (1998) ; (III). Claims 1, 5-10, 13 and 14 are rejected under 35 U.S.C. 102 (a) over Murray et al., (Clinical Endocrinology 52, 537-542 (2000)).

Continuation of (3): An amendment filed November 5, 2003 subsequent to the final rejection has been entered, and the rejection of claims 10 and 13 under 35 U.S.C. 112, second paragraph has been withdrawn in the Advisory action dated December 2, 2003.

Continuation of (5): A concise statement of the issues should be presented as follows: (I). Whether claims 2, 3, 11, 15 and 16 are indefinite under 35 U.S.C. 112, second paragraph; (II). Whether claims 1, 7-10 and 13 are anticipated by Drake et al. (1998); (III). Whether claims 1, 5-10, 13 and 14 are anticipated by Murray et al. (2000).

Continuation of (6): Each ground of rejection applies to a group of two and more claims, and the grouping of claims are shown as follows: Group I. Claims 2, 3, 11, 15 and 16 stand or fall together; Group II. Claims 1, 7-10 and 13 stand or fall together; Group III. Claims 1, 5-10, 13 and 14 stand or fall together.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (571) 272-0951. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 308-4227 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Chih-Min Kam, Ph. D. *CMK*
Patent Examiner

January 28, 2004 .

Christopher S. F. Low
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